UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

MALIBU CONSULTING CORP.,	§	
, , , , , , , , , , , , , , , , , , ,	§	
Plaintiff,	§	
v.	§	
	§	
FUNAIR CORPORATION a/k/a	§	
FunAir Corporation,	§	CIVIL ACTION NO.
	§	
Defendant/Third Party Plaintiff,	§	SA-06-CA-0735 XR
	§	
v.	§	
	§	
AERO SKY, L.L.C.,	§	
AVICOR AVIATION, INC., and	§	
J. ALLAN TAMM, Individually,	§	
	§	
Third Party Defendants.	§	

ORDER DENYING MOTION TO RECONSIDER (#175)

The matter before the Court is the motion to reconsider filed by defendant Funair, as well as the response and the reply to the motion (docket entries 175, 181 and 190). Having reviewed the arguments of counsel as well as my Order of November 14, 2007, the motion is DENIED. To the extent the motion relies on my apparent failure to consider whether a less burdensome method for obtaining discovery exists – specifically contention interrogatories – I note that I did consider the availability of alternate discovery. At the time the subject deposition was noticed, the discovery deadline was imminent, leaving insufficient time to propound and respond to interrogatories.¹

¹Local Rule CV-16(d): "Written discovery is not timely unless the response to that discovery would be due before the discovery deadline."

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Accordingly, no less burdensome method of discovery existed and the motion for protective order

to quash the Rule 30(b)(6) deposition was denied. When the current motion to reconsider was filed

(November 27, 2007) the discovery deadline had been extended to January 11, 2008. However, that

deadline is now less than 30 days away and, as before, there is not sufficient time before the

expiration of the discovery deadline to allow for responses to interrogatories. Accordingly, because

alternative discovery devices were not available in November ... and are not available now ... the

motion to reconsider is denied.

It is so ORDERED.

SIGNED on December 20, 2007.

NANCY STEIN NOWAK

UNITED STATES MAGISTRATE JUDGE

Mancy Steen Monak